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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,840	06/27/2006	Slawomir Bursztein	GRS 201	3465
7590 09/19/2008 Horst M Kasper			EXAMINER	
13 Forest Drive			MCKINLEY, CHRISTOPHER BRIAN	
Warren, NJ 070	059		ART UNIT	PAPER NUMBER
			3781	
			MAIL DATE	DELIVERY MODE
			09/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
	10/584,840	BURSZTEIN, SLAWOMIR				
Office Action Summary	Examiner	Art Unit				
	CHRISTOPHER B. MCKINLEY	3781				
The MAILING DATE of this communication ap Period for Reply	opears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
1)⊠ Responsive to communication(s) filed on <u>12</u> .	June 2008.					
	is action is non-final.					
3) Since this application is in condition for allowa	ince this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>1-19</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-19</u> is/are rejected.						
7) Claim(s) is/are objected to.	7) Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers						
9)☐ The specification is objected to by the Examiner.						
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage 						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
det ind attached detailed emice detail for a lie	t of the certified depice fiet receive	u.				
Attachment(s)						
1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date Notice of Informal Patent Application						
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application 6) Other:						

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DETAILED ACTION

Claim Rejections - 35 USC § 103

- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (5,449,079) in view of Jury (5,941,391). Yang discloses the limitations of the claims including a cover (figs. 1-7) comprising a shell (2) spherical projection with cylindrical cavity (200), openings (202), valve head (23), circular plate with triangular edge (annular extending portion of valve 23), gasket (240), pin (231), bonnet (21) with ribs (upwards extending portion of bonnet 21). Yang excludes a cylindrical stem moveably supported in an opening, a sleeve with flange and an elliptical outline. Jury teaches a cylindrical stem moveably supported in an opening a sleeve with distancing projections/rib thereby creating a vacuum sealed valve construction. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Yang with the aforementioned structural features in order to provide an alternate vacuum sealed valve construction.

Regarding the elliptical outline, Yang excludes what would have been obvious to one of ordinary skill in the art at the time of invention, having an elliptical outline pointed towards the inside of the container in order to facilitate design choice and add an aesthetic element to the container cover. Moreover, a change in form or shape is

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generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. A Change in aesthetic (ornamental) design generally will not support patentability. *In re Seid*, 73 USPQ 431.

Response to Arguments

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER B. MCKINLEY whose telephone number is (571)272-3370. The examiner can normally be reached on Monday-

Thursday, 7:00 AM - 5:30 PM.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

7. Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. B. M./

Examiner, Art Unit 3781

/Anthony D Stashick/
Anthony D Stashick
Supervisory Patent Examiner, Art Unit 3781